

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 3:19-00239

RICKY L. HOUDERSHELDT, D.O.

**MEMDORANDUM OPINION AND ORDER**

The Court previously granted Defendant's motion for leave to file supplemental briefing (ECF No. 199) and took the arguments contained therein under advisement. ECF No. 220. During Defendant's sentencing hearing, the parties alerted the Court that the Defendant's *Giglio* claim raised in the supplemental briefing had not yet been resolved. The Court now **DENIES** Defendant's request for a new trial raised in ECF No. 199.

Defendant asserts that the Government violated *Brady v. Maryland* by failing to disclose a 2017 decision by the Medical Board of California in an action brought against another doctor. In that decision, the Medical Board rejected Dr. Timothy Munzing's expert opinion as unpersuasive because it contained several factual errors. Although this evidence could have been used to impeach Dr. Munzing's credibility, the Court finds that it was not material because there is not a "reasonable probability that the suppressed evidence would have produced a different verdict." *United States v. Higgs*, 663 F.3d 726, 735 (4th Cir. 2011) (quoting *Strickler v. Greene*, 527 U.S. 263, 281-82 (1999)). For all reasons previously stated by this Court, the jury's verdict was sufficiently supported by DL's testimony and BW's medical records. Although the Court also relied upon Dr. Munzing's testimony as to BW, it found that this testimony did not contain the type of factual error identified by the Medical Board's decision in 2017. *See* ECF No. 246.

Therefore, the Court finds that the admission of the decision would not have produced a different verdict and denies Defendant's request.

The Clerk is **DIRECTED** to send a copy of this Order to counsel and the defendant, the United States Attorney's Office, the United States Probation Office, and the United States Marshals Service.

ENTER: January 7, 2021

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE